

PT 98-57

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

**FOREST PRESERVE DISTRICT
OF COOK COUNTY**

Applicant

v.

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

Docket # 95-16-872

Parcel Index # 23-07-100-001

**Barbara S. Rowe
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

Appearances: Wilbert U. Allen, Assistant Chief Attorney for the Forest Preserve District of Cook County (hereinafter referred to as the "Forest Preserve District").

Synopsis:

The hearing in this matter was held at Chicago, Illinois on November 14, 1997, to determine whether or not Cook County Parcel Index No. 23-07-100-001 qualified for a property tax exemption for the 1995 assessment year.

No one was present to testify on behalf of the applicant.

The issues in this matter include, first, whether the Forest Preserve District could apply for a property tax exemption for the Metropolitan Water Reclamation District of Greater Chicago (hereinafter referred to as the Sanitary District); secondly, was the Sanitary District the owner of the parcel during the 1995 assessment year; thirdly, is the Sanitary District a municipal corporation; and lastly, whether this parcel was used for public purposes during the 1995 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the Forest Preserve District could apply for a property tax exemption for the

Sanitary District. It is also determined that the Sanitary District owned the subject parcel for the entire 1995 assessment year. It is determined that the Sanitary District is a municipal corporation. It is also determined that the parcel in question was used for public purposes in 1995.

Findings of Fact:

1. The jurisdiction and position of the Department that Cook County Parcel Index No. 23-07-100-001 did not qualify for a property tax exemption for the 1995 assessment year was established by the admission into evidence of Department's Exhibits numbered 1 through 5. (Tr. p. 7)

2. On June 18, 1996, the Department received a property tax exemption application from the Cook County Board of Review for Permanent Parcel Index No. 23-07-100-001. The Forest Preserve District had submitted the request, and the board recommended that the Department grant a full year exemption for the 1995 assessment year. The Department assigned Docket No. 95-16-872 to the application. (Dept. Grp. Ex. No. 2)

3. On July 25, 1996, the Department denied the requested exemption application, finding that the property was not owned by the Forest Preserve District. (Dept. Ex. No. 3)

4. The Forest Preserve District timely protested the denial of the exemption and requested a hearing in the matter. (Dept. Ex. No. 4)

5. The hearing at the Department's offices at 100 W. Randolph, Chicago, Illinois, on November 14, 1997, was held pursuant to that request. (Dept. Ex. No. 5)

6. The Sanitary District of Chicago acquired the parcel at issue by way of a quit claim deed dated February 20, 1893. (Dept. Grp. Ex. No. 2 pp. 10-12)

7. On April 1, 1993, the Metropolitan Water Reclamation District of Greater Chicago entered into a lease agreement with the Forest Preserve District to create the "Centennial Trail" a 25-mile recreation trail through the corridor connecting forest preserves, public parks, historic structures, and adjacent communities spanning Cook, Du Page, and Will counties. Lease # L-220 is for a term of 40 years from April 1, 1993 through March 31, 2033.

The lessee agreed to pay \$10.00 as rent for the premises. The lease obligated the lessee to pay all taxes imposed upon the premises or upon any leasehold estate created. (Dept. Ex. No. 2 pp. 13-55)

8. I take administrative notice of the fact that the Metropolitan Water Reclamation District and the Sanitary District of Chicago are the same entity.

9. The subject parcel is comprised of .09 of an acre and is part of the leased premises. (Dept. Ex. No. 2 p. 1)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the Constitutional enabling provision, the legislature has carved out exemptions from property taxation. The exemption for forest preserve districts is found at 35 **ILCS** 200/15-145 and states that “[A]ll property belonging to any forest preserve district organized or existing under the law of this State . . . is exempt.” The property at issue does not belong to the Forest Preserve District.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272

(1967)

On the application, the Forest Preserve District cited 70 **ILCS** 810/8 as the provision pursuant to which the applicant was applying for a property tax exemption. Chapter 70 is entitled special districts. The statutory section deals with “Acquisition of property by gift, grant, etc.-Improvements and facilities-Leases-Licenses, etc.-Vacation of streets-Sale of materials from land or water” and has no provision for property tax exemptions.

THE STATUTORY PROVISION, FOUND AT 35 ILCS 200/16-115, RELATING TO FILING COMPLAINTS IN COOK COUNTY STATES THAT:

IN COUNTIES WITH 3,000,000 OR MORE INHABITANTS, COMPLAINTS THAT ANY PROPERTY IS OVERASSESSED OR UNDERASSESSED, OR IS EXEMPT, MAY BE MADE BY ANY TAXPAYER.

The Appellate Court in Highland Park Women’s Club v. The Department of Revenue et al., 206 Ill.App.3d 447 (2nd Dist. 1990, leave to appeal denied) discussed the standing of a taxpayer to challenge a property tax assessment in Cook County. The court stated:

It is apparent from our review of the provisions we have cited . . . that the legislature intended to allow these bodies [boards of appeals] to consider complaints of taxpayers about exemptions and underassessment of property belonging to others. *id.* at 457

I therefore find that the Forest Preserve District is allowed, by statute, to bring this exemption request.

The Sanitary District is a municipal corporation. See People v. Nelson, 133 Ill. 565 (1890). As such the pertinent statutory provision for exemptions for municipal corporations is found at 35 **ILCS** 200/15-75 and states:

All market houses, public squares and other public grounds owned by a municipal corporation and used exclusively for public purposes are exempt.

I find that the subject parcel is owned by a municipal corporation. As it is used as part of a recreational trail for three counties, I also find that it is used for public purposes. It is therefore unnecessary to address the assertions of the attorney for the applicant that the lease was

in fact an intergovernmental agreement or that the lease authorized the applicant to act as an agent for the Water Reclamation District with respect to obtaining a tax exemption for this particular parcel.

I recommended that Cook County Parcel Index No. 23-07-100-001 be exempt from taxation for the 1995 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
July 21, 1998